

Patent US 224C2  
Attorney Docket No. 032,290-108

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

**FOERSTER et al.**

**Serial No.: 09/776,125**

Filed: February 2, 2001

For: METHODS AND DEVICES FOR  
DEFINING AND MARKING TISSUE

Group Art Unit: 3731

Examiner: Jessica R. Baxter

**INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.56 and in accordance with 37 C.F.R. §§1.97–1.98, information relating to the above–identified application is hereby disclosed. The accompanying Form PTO–1449 provides a listing of documents that may be relevant to the subject application.

It is requested that the Examiner fully consider the art cited in the accompanying Form 1449, initial the left–most column of the form adjacent each cited reference, and return a copy for Applicants' records. It is further requested that the art be cited on the cover of any patent issuing from the subject application.

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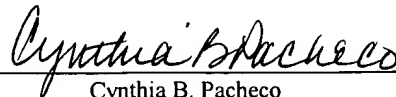
CERTIFICATE OF MAILING (37 C.F.R. §1.8a)

I hereby certify that I have reasonable basis to expect and believe that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

March 21, 2005

Date of Deposit

IR1:1059946.1

  
Cynthia B. Pacheco

In accordance with § 1.98(d), copies of some or all of the references listed on the attached Form PTO-1449 are not enclosed herewith because they were previously cited by or submitted to the Patent and Trademark Office in one or more of the prior U.S. Applications: U.S. Application No. 08/308,097, filed on September 16, 1994, now abandoned; U.S. Application No. 08/858,389 filed on May 19, 1997, issued as U.S. Patent No. 6,228,055; U.S. Application No. 09/954,646, filed September 18, 2001; U.S. Application No. 10/213,638, filed August 7, 2002; U.S. Application No. 10/734,671, filed December 12, 2003; and U.S. Application No. 10/630,883, filed on July 30, 2003.

Accordingly, Applicants will provide duplicate copies in respect of the present case only if the Examiner so desires.

Also, Applicants are attaching hereto are copies of the international search reports from applications that are commonly owned.

This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

This statement should not be construed as a representation that more material information does not exist or that an exhaustive search of the relevant art has been made. Nor does this

statement constitute an admission by Applicants or Applicants' agent that the information provided herein is necessarily prior art to Applicants' invention. Moreover, Applicants reserve the right to establish the patentability of the claimed invention over any of the listed documents should they be applied there-against as references. Please charge any deficiency or credit any overpayment to Deposit Account No. 50-2862.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: March 21, 2005

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

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**Complete if Known**

Application No.	09/776,125
Filing Date	February 2, 2001
First Named Inventor	Foerster
Art Unit	3731
Examiner Name	Baxter
Attorney Docket No.	032,290-108 (formerly END-723)

Sheet 1 of 2

**U.S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document No. Number-Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1.	us-4,103,690	08/1978	Harris	
	2.	us-5,002,548	03/1991	Campbell, et al.	
	3.	us-5,024,727	06/1991	Campbell, et al.	
	4.	us-5,112,299	05/1992	Pascaloff	
	5.	us-5,133,661	07/1992	Euvrard	
	6.	us-5,158,565	10/1992	Marcadis, et al.	
	7.	us-5,192,292	03/1993	Cezana, et al.	
	8.	us-5,395,319	03/1995	Hirsch, et al.	
	9.	us-5,445,167	08/1995	Yoon, et al.	
	10.	us-5,469,854	11/1995	Unger, et al.	
	11.	us-5,496,314	03/1996	Eggers	
	12.	us-5,681,262	10/1997	Isse	
	13.	us-5,902,310	05/1999	Foerster, et al.	
	14.	us-6,053,925	04/2000	Barnhart	
	15.	us-5,645,566	07/1997	Brenneman	
	16.	us-5,670,161	09/1997	Brenneman	
	17.	us-4,230,123	04/1997	Hawkins	
	18.	us-6,347,241	02/2002	Burbank	
	19.	us-6,371,904	04/2002	Sirimanne	

**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>3</sup> Number <sup>4</sup> Kind Code (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
	20.	UK-2,132,091	07/1984	Norton, et al.		
	21.	WO 98/47430	10/1998	Vascular Science Inc.		
	22.	FR 2714284	06/1995	Leriche		
	23.	WO 96/08208	03/1996	Biopsys		

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This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Sheet	2	of	2
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		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code (if known)				
	24.	DE 4403789	08/1995	Schering AG		
	25.	DE 4330958	03/1995	Schering AG		
	26.	EP 0769281	04/1997	U.S. Surgical Corp.		

**NON PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s) volume-issue number(s), publisher, city and/or country where published	T <sup>2</sup>
	27.	S.S. KRAMER, et al., "A Permanent Radiopaque Marker Technique for the Study of Pharyngeal Swallowing in Dogs", <i>Dysphagia</i> (1987) pp. 163-167	
	28.	HOMER, et al., "The Geographic Cluster of Microcalcifications of the Breast", <i>Surgery, Gynecology &amp; Obstetrics</i> (1985)	
	29.	FINAN, et al., "Interstitial Radiotherapy for Early Stage Vaginal Cancer", <i>The Journal of Reproductive Medicine</i> (1993) Vol. 38, No. 3	
	30.	DUFRANE, P. et al., "Prebiopsy Localization of Non-Palpable Breast Cancer", <i>Journal Belgede Radiologie</i> (October 1, 1990) Vol. 73, No. 5	

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Considered

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